

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 3609**  
**OFFERED BY MR. CONYERS OF MICHIGAN**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Emergency Home  
3 Ownership and Mortgage Equity Protection Act of 2007”  
4 .

**5 SEC. 2. DEFINITIONS.**

6       Section 101 of title 11, the United States Code, is  
7 amended—

8           (1) by redesignating paragraphs (40A) and  
9           (40B) as paragraphs (40B) and (40C), respectively,  
10          (2) by inserting after paragraph (40) the fol-  
11       lowing:

12           “(40A) The term ‘nontraditional mortgage’  
13       means a security interest in the debtor’s principal  
14       residence that secures a debt for a loan that at any  
15       period during the term of the loan provides for the  
16       deferral of payment of principal or interest through  
17       permitting periodic payments that do not cover the

1 full amount of interest due or that cover only the in-  
2 terest rate, except that such term excludes—

3 “(A) a home equity line of credit that is in  
4 a subordinate loan position; and

5 “(B) a reverse mortgage.”,

6 (3) by redesignating paragraphs (53B) through  
7 (53D) as paragraphs (53C), (53D), (53E), and  
8 (53F), respectively, and

9 (4) by inserting after paragraph (53A) the fol-  
10 lowing:

11 “(53B) The term ‘subprime mortgage’ means a  
12 security interest in the debtor’s principal residence  
13 that secures a debt for a loan that has an annual  
14 percentage rate that is greater than—

15 “(A) the sum of 3 percent plus the yield on  
16 United States Treasury securities having com-  
17 parable periods of maturity, if the loan is se-  
18 cured by a first mortgage or first deed of trust;  
19 or

20 “(B) the sum of 5 percent plus the yield  
21 on United States Treasury securities having  
22 comparable periods of maturity, if the loan is  
23 secured by a subordinate mortgage or subordi-  
24 nate deed of trust.

1 Without regard to whether such loan is subject to or  
2 reportable under the Home Mortgage Disclosure  
3 Act, the difference between the annual percentage  
4 rate of such loan and the yield on United States  
5 Treasury securities having comparable periods of  
6 maturity shall be determined using the procedures  
7 and calculation methods applicable to loans that are  
8 subject to the reporting requirements of such Act,  
9 except that such yield shall be determined as of the  
10 15th day of the month preceding the month in which  
11 a completed application is submitted for such loan.  
12 If such loan provides for a fixed interest rate for an  
13 introductory period and then resets or adjusts to a  
14 variable interest rate, the determination of the an-  
15 nual percentage rate shall be based on the greater  
16 of the introductory rate and the fully indexed rate.  
17 For purposes of this paragraph, the term ‘fully in-  
18 dexed rate’ means the prevailing index rate on a res-  
19 idential mortgage loan at the time the loan is made  
20 plus the margin that will apply after the expiration  
21 of an introductory interest rate.”.

22 **SEC. 3. DELAY OF COUNSELING REQUIREMENT WHEN**  
23 **HOUSES ARE IN FORECLOSURE.**

24 Section 109(h) of title 11, United States Code, is  
25 amended by adding at the end the following:

1 “(5)(A) Subject to subparagraph (B), the require-  
2 ments of paragraph (1) shall not apply with respect to  
3 a debtor in a case under chapter 13 commenced during  
4 the 7-year period beginning on the effective date of this  
5 paragraph who submits to the court a certification that  
6 the debtor has received notice that the holder of a claim  
7 secured by the debtor’s principal residence may commence  
8 a foreclosure on the debtor’s principal residence.

9 “(B) With respect to a debtor, an exemption under  
10 subparagraph (A) shall cease to apply to that debtor on  
11 the date that is 30 days after the debtor files a petition,  
12 except that the court, for cause, may order an additional  
13 15 days.”.

14 **SEC. 4. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

15 Section 1322(b) of title 11, United States Code, is  
16 amended—

17 (1) by redesignating paragraph (11) as para-  
18 graph (12),

19 (2) in paragraph (10) by striking “and” at the  
20 end, and

21 (3) by inserting after paragraph (10) the fol-  
22 lowing:

23 “(11) notwithstanding paragraph (2) and other-  
24 wise applicable nonbankruptcy law, with respect to a  
25 claim for a debt incurred during the period begin-

1       ning on January 1, 2000, and ending on the effec-  
2       tive date of this paragraph, secured by a nontradi-  
3       tional mortgage, or a subprime mortgage, on the  
4       debtor's principal residence that is the subject of a  
5       notice that a foreclosure may be commenced, if the  
6       case is commenced under this title in the 7-year pe-  
7       riod beginning on the effective date of this para-  
8       graph and if the debtor's current monthly income re-  
9       duced by the amounts determined in accordance  
10      with clauses (ii), (iii) and (iv) of subparagraph (A),  
11      and with subparagraph (B), of section 707(b)(2)  
12      (other than amounts scheduled as contractually due  
13      to the holder of such claim and additional payments  
14      necessary to maintain possession of such residence)  
15      is insufficient to cure all defaults on such claim and  
16      maintain all payments while the case is pending as  
17      provided in paragraph (5), modify the rights of the  
18      holder of such claim—

19               “(A) by reducing such claim to equal the  
20               value of the property interest of the debtor se-  
21               curing such claim;

22               “(B) by waiving any otherwise applicable  
23               early repayment or prepayment penalties;

24               “(C) if any applicable rate of interest is  
25               adjustable under the terms of such nontradi-

1           tional mortgage, or such subprime mortgage, by  
2           prohibiting, reducing, or delaying adjustments  
3           to such rate of interest applicable on and after  
4           the date of filing of the plan; and

5           “(D) by modifying the terms and condi-  
6           tions of such loan—

7                   “(i) to extend the repayment period  
8                   for a period that is the longer of 30 years  
9                   (reduced by the period for which the loan  
10                  has been outstanding) or the remaining  
11                  term of such loan, beginning on the date of  
12                  the order for relief under this chapter; and

13                  “(ii) to provide for the payment of in-  
14                  terest accruing after the date of the order  
15                  for relief under this chapter at an annual  
16                  percentage rate calculated at a fixed an-  
17                  nual percentage rate, in an amount equal  
18                  to the then most recently published annual  
19                  yield on conventional mortgages published  
20                  by the Board of Governors of the Federal  
21                  Reserve System, as of the applicable time  
22                  set forth in the rules of the Board, plus a  
23                  reasonable premium for risk; and”.

1   **SEC. 5. COMBATING EXCESSIVE FEES.**

2           Section 1322(c) of title 11, the United States Code,  
3 is amended—

4           (1) in paragraph (1) by striking “and” at the  
5 end,

6           (2) in paragraph (2) by striking the period at  
7 the end and inserting a semicolon, and

8           (3) by adding at the end the following:

9           “(3) the debtor, the debtor’s property, and  
10 property of the estate are not liable for a fee, cost,  
11 or charge that arises from a security interest that is  
12 secured by the debtor’s principal residence and that  
13 is incurred while the case is pending except to the  
14 extent that—

15           “(A) the holder of such claim files with the  
16 court notice of such fee, cost, or charge before  
17 the earlier of—

18           “(i) 1 year after the fee, cost, or  
19 charge is incurred; or

20           “(ii) 60 days before the closing of the  
21 case; and

22           “(B) such fee, cost, or charge—

23           “(i) is lawful under applicable non-  
24 bankruptcy law, reasonable, and provided  
25 for in an agreement secured by such secu-  
26 rity interest; and

1                   “(ii) is secured by property the value  
2                   of which is greater than the amount of  
3                   such claim, including such fee, cost, or  
4                   charge;

5                   “(4) the failure of a party to give notice de-  
6                   scribed in paragraph (3) shall be deemed a waiver  
7                   of any claim for fees, costs, or charges described in  
8                   paragraph (3) for all purposes, and any attempt to  
9                   collect such fees, costs, or charges shall constitute a  
10                  violation of section 524(a)(2) or, if the violation oc-  
11                  curs before the date of discharge, of section 362(a);  
12                  and

13                  “(5) a plan may provide for the waiver of any  
14                  prepayment penalty on a claim secured by the prin-  
15                  cipal residence of the debtor.”.

16 **SEC. 6. CONFIRMATION OF PLAN.**

17                  Section 1325(a) of title 11, the United States Code,  
18                  is amended—

19                  (1) in paragraph (8) by striking “and” at the  
20                  end,

21                  (2) in paragraph (9) by striking the period at  
22                  the end and inserting a semicolon, and

23                  (3) by inserting after paragraph (9) the fol-  
24                  lowing:



1           “(10) notwithstanding subclause (I) of para-  
2           graph (5)(B)(i), the holder of a claim whose rights  
3           are modified pursuant to section 1322(b)(11) shall  
4           retain the lien until the later of—

5                   “(A) the payment of such claim as reduced  
6                   and modified; or

7                   “(B) discharge under section 1328; and

8           “(11) if the plan modifies a claim in accordance  
9           with section 1322(b)(11), the court finds that such  
10          modification is in good faith.”.

11 **SEC. 7. DISCHARGE.**

12          Section 1328 of title 11, the United States Code, is  
13          amended—

14               (1) in subsection (a)—

15                   (A) by inserting “(other than payments to  
16                   holders of claims whose rights are modified  
17                   under section 1322(b)(11)” after “paid” the  
18                   1st place it appears, and

19                   (B) in paragraph (1) by inserting “or, to  
20                   the extent of the unpaid portion of the claim as  
21                   reduced, provided for in section 1322(b)(11)”  
22                   after “1322(b)(5)”, and

23               (2) in subsection (c)(1) by inserting “or, to the  
24               extent of the unpaid portion of the claim as reduced,

1 provided for in section 1322(b)(11)” after  
2 “1322(b)(5)”.

3 **SEC. 8. STUDY AND REPORT BY GOVERNMENT ACCOUNT-**  
4 **ABILITY OFFICE.**

5 (a) STUDY.—The Comptroller General of the United  
6 States shall conduct a study to determine the impact of  
7 the amendments made by sections 2 through 7 of this Act.

8 (b) REPORT TO CONGRESS.—Not later than 180 days  
9 after the date of enactment of this Act, the Comptroller  
10 General shall submit a report to Congress on the results  
11 of the study required under subsection (a).

12 **SEC. 9. STUDY AND REPORT BY EXECUTIVE OFFICE FOR**  
13 **UNITED STATES TRUSTEES.**

14 (a) STUDY.—The Director of the Executive Office for  
15 United States Trustees shall conduct a study to determine  
16 the impact of the amendments made by sections 2 through  
17 7 of this Act.

18 (b) REPORT TO CONGRESS.—Not later than 180 days  
19 after the date of enactment of this Act, the Director of  
20 the Executive Office for United States Trustees shall sub-  
21 mit a report to Congress on the results of the study re-  
22 quired under subsection (a).

23 **SEC. 10. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

24 (a) EFFECTIVE DATE.—Except as provided in sub-  
25 section (b), this Act and the amendments made by this

1 Act shall take effect on the date of the enactment of this  
2 Act.

3 (b) APPLICATION OF AMENDMENTS.—The amend-  
4 ments made by this Act shall apply only with respect to  
5 cases commenced under title 11 of the United States Code  
6 on or after the date of the enactment of this Act.